

June 14, 2006  
Case No.: 10030346-1 (8770/31)  
Serial No.: 10/821,087  
Filed: APRIL 8, 2004  
Page 7 of 9

— REMARKS —

The present amendment replies to a Non-Final Office Action dated March 14, 2006. Claims 1-25 are currently pending in the present application and claim 26 has been added herein. Claim 12 has been cancelled. In the Non-Final Office Action, the Examiner allowed claims 1-10 and 18-25. The Examiner rejected claims 11, 13, 14, 16, and 17 on various grounds and found claims 12 and 15 allowable if rewritten in independent form.

Claim 11 has been amended herein to incorporate the limitations of allowable claim 12, which has been cancelled. Claim 26 has been added to incorporate the limitations of allowable claim 15 with the limitations of claims 11 and 13 from which allowable claim 15 depends. The Applicant responds to each ground of rejection as subsequently recited herein and request reconsideration of the present application.

- A. Claims 11, 13, 14, 16, and 17 were rejected under 35 U.S.C. §102(b) as anticipated by or, alternatively, under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent No. 5,841,143 to *Tuma, et al.*

The Applicant has thoroughly considered the Examiner's remarks concerning patentability of the claims over U.S. Patent No. 5,841,143 to *Tuma, et al.* (the "*Tuma* patent"). The Applicant has also thoroughly read the *Tuma* patent. The Applicant asserts that amended independent claim 11 incorporates the limitations of allowable claim 12 and is allowable for the same reasons as allowable claim 12.

The Applicant respectfully asserts that the *Tuma* patent fails to include each and every element of the Applicant's invention as claimed, as required to maintain a rejection under 35 U.S.C. §102(b). See MPEP 2131. The Applicant also respectfully asserts the *Tuma* patent fails to teach or suggest all the elements of the claimed invention. To establish *prima facie* obviousness of a claimed invention, all the claim limitations must be taught or suggested by the prior art. *In re Royka*, 490 F.2d 981, 180 USPQ 580 (CCPA 1974). See MPEP 2143.03. The Applicant asserts that the *Tuma* patent fails to disclose, teach, or suggest a method for generating color-tunable light including adjusting the refractive index of the electro-optical layer to tune the center wavelength by changing a voltage across the electro-optical layer, as recited in amended independent claim 11.

June 14, 2006  
Case No.: 10030346-1 (8770/31)  
Serial No.: 10/821,087  
Filed: APRIL 8, 2004  
Page 8 of 9

Claims 13, 14, 16, and 17 depend directly or indirectly from amended independent claim 11. Therefore, the dependent claims include all the elements and limitations of the amended independent claim 11. The Applicant therefore respectfully submits that dependent claims 13, 14, 16, and 17 are allowable over the *Tuma* patent for at least the same reasons as set forth above for the amended independent claim 11.

Withdrawal of the rejection of claims 11, 13, 14, 16, and 17 under 35 U.S.C. §102(b) and/or 35 U.S.C. §103(a) is respectfully requested.

B. Claims 12 and 15 were objected to, but found allowable if rewritten in independent form.

The Examiner objected to claims 12 and 15 as being dependent on a rejected base claims, but found claims 12 and 15 allowable if rewritten in independent form.

Claim 11 has been amended to incorporate the limitations of allowable claim 12, which has been cancelled. Therefore, the Applicant asserts that amended independent claim 11 is allowable for the same reasons as allowable claim 12. The word "material" in claim 12 has been changed to "layer" in claim 11 to correct a clerical error.

Claim 15 depends directly from amended independent claim 11 and includes all the elements and limitations of independent claim 11. The Applicant asserts that claim 15 is allowable for at least the same reasons discussed above for independent claim 11.

Claim 26 has been added to incorporate the limitations of allowable claim 15 with the limitations of claims 11 and 13 from which allowable claim 15 depends. The Applicant asserts that claim 26 is allowable for at least the same reasons allowable claim 15.

Withdrawal of the objection to claim 15 and allowance of claims 11 and 26 is respectfully requested.

June 14, 2006  
Case No.: 10030346-1 (8770/31)  
Serial No.: 10/821,087  
Filed: APRIL 8, 2004  
Page 9 of 9


**-SUMMARY-**

Reconsideration of the rejection of claims 11, 13, 14, 16, and 17, reconsideration of the objection to claim 15, and consideration of claim 26 is requested in light of the remarks herein. The Applicant submits that claims 1-11 and 13-26 as set forth fully satisfy the requirements of 35 U.S.C. §§102, 103, and 112. In view of foregoing remarks, favorable consideration and early passage to issue of the present application are respectfully requested.

Dated: June 14, 2006

Respectfully submitted,

CARDINAL LAW GROUP  
1603 Orrington Avenue, Suite 2000  
Evanston, IL 60201  
(847) 905-7111

  
\_\_\_\_\_  
FRANK C. NICHOLAS  
Registration No. (33,983)  
Attorney for Applicant